

ESTTA Tracking number: **ESTTA161974**

Filing date: **09/11/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	4392132 CANADA INC.		
Entity	Corporation	Citizenship	CANADA
Address	PLACE DU PARC, 300 LEO-PARISEAU SUITE 600 MONTREAL, PROVINCE OF QUEBEC, H2X 4C2 CANADA		

Attorney information	MARK HARRISON VENABLE LLP 575 7th STREET, N.W. WASHINGTON, DC 20004 UNITED STATES trademarkdocket@venable.com, mbharrison@venable.com, lmfuller@venable.com Phone:(202) 344-4000
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### Registration Subject to Cancellation

Registration No	3225245	Registration date	04/03/2007
International Registration No.	NONE	International Registration Date	NONE
Registrant	LABORATOIRES DE BIOLOGIE VEGETALE YVES ROCHER S.A. La Croix des Archers F-56200 LA GACILLY  FRANCE		

### Goods/Services Subject to Cancellation

<p>Class 003.</p> <p>All goods and services in the class are cancelled, namely: Body and bath soaps, namely, hand soaps, perfumed soaps and moisturizing soaps; fragrances, namely perfumes, cologne, toilet waters and mineral water sprays; personal deodorants, namely spray deodorant, cream deodorants and roll-on anti-perspirant; non-medicated skin-care preparations and treatments for moisturizing, cleansing, vitalizing, purifying and improving the appearance of the body and the face, namely, creams, lotions, after shaves lotions, after shaves creams, after shaves foams, after shave gels, pre-shave balms, pre-shave creams, pre-shave spray, pre-shave emulsions, pre-shave lotions and pre-shave refreshers; non-medicated bath and shower products, namely, bath salts, bath crystals, bath powders, bath oils, bath milks, bath gels, bath essences, bath additives and shower gels; cosmetic make-up products, namely, creams and lotions for the face, foundations; hair care preparations and treatments for moisturizing, repairing, fortifying, volumizing, protecting, coloring, fixing and styling hair, namely, shampoo, conditioning treatments, hair lotions, hair sprays, hair bleach, hair mousses, hair gels, hair creams, hair masks and hair tints</p>
<p>Class 004.</p> <p>All goods and services in the class are cancelled, namely: Candles for lighting; perfumed candles</p>
<p>Class 005.</p> <p>All goods and services in the class are cancelled, namely: Household deodorants and perfumes for the home and not in spray form</p>

## Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3061863	Application Date	12/03/2004
Registration Date	02/28/2006	Foreign Priority Date	NONE
Word Mark	AIR TRANSAT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2004/02/15 First Use In Commerce: 2004/03/16 Transportation of passengers and/or goods by air		

U.S. Registration No.	3061862	Application Date	12/03/2004
Registration Date	02/28/2006	Foreign Priority Date	NONE
Word Mark	TRANSAT		
Design Mark			
Description of Mark	The mark comprises the word "TRANSAT" and a star.		
Goods/Services	Class 039. First use: First Use: 2003/12/01 First Use In Commerce: 2004/03/16 Travel agency and tour operator services, namely, arranging airline, automobile and cruise transportation as part of vacation tour packages		

U.S. Registration No.	3061864	Application Date	12/03/2004
Registration Date	02/28/2006	Foreign Priority Date	NONE
Word Mark	TRANSAT HOLIDAYS USA		
Design Mark			
Description of Mark	The mark comprises the words "TRANSAT", "HOLIDAYS" and "USA" and a star.		
Goods/Services	Class 039. First use: First Use: 2004/08/15 First Use In Commerce: 2004/08/15 Tour operator services, namely, arranging airline, automobile and cruise transportation as part of vacation tour packages		

Attachments	76623190#TMSN.jpeg ( 1 page )( bytes ) TRANSAT PETITION TO CANCEL.pdf ( 4 pages )(27863 bytes ) 76623189#TMSN.gif ( 1 page )( bytes ) 76623191#TMSN.gif ( 1 page )( bytes )
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Signature	/MARK HARRISON/
Name	Mark Harrison

Date	09/11/2007
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

4392132 CANADA INC.	)	
by assignment from	)	
TRANSAT TOURS CANADA INC.	)	
	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No.
	)	
LABORATOIRES DE BIOLOGIE VEGETALE	)	
YVES ROCHER S.A.	)	
	)	
Registrant	)	
	)	

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**Attorney's Reference: 37114-240295**

**PETITION FOR CANCELLATION**

In the matter of Registration No. of the trademark TRANSAT of  
Laboratoires De Biologie Vegetale Yves Rocher S.A as shown in Registration No. 3225245  
Issued April 3, 2007.

4392132 CANADA INC., as assignee of Transat Tours Canada Inc. (hereinafter jointly  
referred to as "Petitioner") believes that it will be damaged by continued registration of the mark  
shown in said Registration No. 3225245 and hereby opposes the same.

As grounds for cancellation it is alleged that:

1. Petitioner is now, and for many years has been, among other things, engaged in  
the business of transportation of passengers and/or goods by air; tour operations,  
and travel agency services.
2. Petitioner is the owner of U.S. Trademark Registration No. 3,061,863 issued  
February 28, 2006 from an application filed December 3, 2004 for the mark AIR

TRANSAT & design as used to identify "transportation of passengers and/or goods by air."

3. Petitioner is the owner of U.S. Registration No. 3,061,862 issued February 28, 2006 from an application filed December 3, 2004 for the mark TRANSAT & design as used to identify "travel agency and tour operator services, namely, arranging airline, automobile and cruise transportation as part of vacation tour packages."
4. Petitioner is the owner of U.S. Registration No. 3,061,864 issued February 28, 2006 from an application filed December 3, 2004 for the mark TRANSAT HOLIDAYS USA & design as used to identify "tour operator services, namely, arranging airline, automobile and cruise transportation as part of vacation tour packages."
5. Petitioner has used the mark TRANSAT in the United States since at least as early as 2004 and, in any event, since prior to any date of first use that Registrant may rely upon for its mark in the United States.
6. Petitioner has used the designation TRANSAT as a trademark in the U.S. since prior to any use of the mark TRANSAT in the U.S. that may be alleged or relied upon by Registrant.
7. It is not unusual for the same company to offer both services of the type covered in Petitioner's pleaded registrations and goods of the type listed in Registrant's registration.

8. It is not unusual for travel agencies or tour operators or airlines or cruise operators to provide their customers with goods of the type listed in Registrant's registration.
9. Registrant offers travel related items to its customers such as flight bags and travel size and trial size products.
10. The trademark TRANSAT sought to be registered by the Registrant is identical to that portion of Petitioner's trademarks comprising the term TRANSAT.
11. Consumers are likely to be confused and to mistakenly believe that Registrant's TRANSAT products are products of Petitioner, or are licensed by, sponsored by, or associated with Petitioner, or that Petitioner's services are licensed by, sponsored by, or associated with Registrant.
12. If the Registrant were permitted to maintain the registration of its mark for its goods as specified in its registration, confusion among consumers resulting in damage and injury to Petitioner would be caused by virtue of the fact that Registrant's trademark and Petitioner's trademarks are substantially identical, and the related nature of the goods and services covered by those marks. Any defect, objection or fault found with Registrant's goods would reflect upon and seriously injure the reputation which Petitioner has established under its trademark.
13. The Registrant's mark TRANSAT is likely to cause dilution of the Petitioner's mark TRANSAT by lessening the capacity of the Petitioner's mark to identify and distinguish the Petitioner's services.

**WHEREFORE**, Petitioner prays that said Registration No. 3225245 be cancelled, and that this cancellation be sustained in favor of the Petitioner.

This Petition for Cancellation is submitted ONLINE with the statutory filing fee of \$900.00. Should any additional fee be required, please charge the same to our Account No. 22-0261 and notify the undersigned accordingly.

Petitioner appoints Mark B. Harrison, Marcia A. Auburger, Andrew Price, Jacqueline Levasseur Patt and Janet Satterthwaite along with the law firm of Venable LLP to transact all business on its behalf in connection with this Opposition.

Respectfully submitted,



Dated: September 11, 2007

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